

for purposes of computing the plan's 2009 premium.

Example 2. The plan also provides that a participant becomes vested five years after commencing employment and defines a one-year break in service as a service computation period in which less than 500 hours of service is performed. On February 1, 2010, John has an accrued benefit of \$18 per month beginning at age 65 based on credit for 1,200 hours of service in the service computation period that began July 1, 2008. However, John has credit for only 492 hours of service in the service computation period that began July 1, 2009. On February 1, 2010, John terminates his employment. On December 31, 2010 (the participant count date for the 2011 premium), John has incurred a one-year break in service, and thus is not counted as a participant for purposes of computing the plan's 2011 premium.

Example 3. On January 1, 2012, the plan is amended to provide that if a vested participant whose accrued benefit has a present value of \$5,000 or less leaves employment, the benefit will be immediately cashed out. On December 30, 2013, Jane, who has a vested benefit with a present value of less than \$5,000, leaves employment. Because of reasonable administrative delay in determining the amount of the benefit to be paid, the plan does not pay Jane the value of her benefit until January 9, 2014. Under the provisions of this section, Jane is treated as not having an accrued benefit on December 31, 2013 (the participant count date for the 2014 premium), because Jane's benefit is treated as having been paid on December 30, 2013. Thus, Jane is not counted as a participant for purposes of computing the plan's 2014 premium.

Example 4. If the plan amendment had instead provided for cashouts as of the first of the month following termination of employment, and the plan paid Jane the value of her benefit on January 1, 2014, Jane would be treated under the provisions of this section as having an accrued benefit on December 31, 2013, and would thus be counted as a participant for purposes of computing the plan's 2014 premium.

[65 FR 75163, Dec. 1, 2000, as amended at 73 FR 15076, Mar. 21, 2008]

§ 4006.7 Premium rate for certain terminated single-employer plans.

(a) The premium under this section ("termination premium") applies to a DRA 2005 termination described in § 4007.13 of this chapter.

(b) The amount of the premium under this section that is payable with respect to each applicable 12-month period (as described in § 4007.13 of this chapter) is the number of participants

in the plan, determined as of the day before the termination date under section 4048 of ERISA, multiplied by the termination premium rate. In general, the termination premium rate is \$1,250. However, the termination premium rate is \$2,500 for an "eligible plan" under section 402(c)(1) of the Pension Protection Act of 2006 (dealing with certain plans of commercial passenger airlines and airline catering services) while an election under section 402(a)(1) of the Pension Protection Act of 2006 (dealing with alternative funding schedules) is in effect for the plan if the plan terminates during the five-year period beginning on the first day of the first applicable plan year (as defined in section 402(c)(2) of that Act) with respect to the plan, unless the Secretary of Labor determines that the plan terminated as a result of extraordinary circumstances such as a terrorist attack or other similar event.

(c) The premium under this section is in addition to any other premium under this part.

(d) See § 4007.13 of this chapter for further rules about termination premiums.

[72 FR 71229, Dec. 17, 2007]

PART 4007—PAYMENT OF PREMIUMS

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APPENDIX TO PART 4007—POLICY GUIDELINES ON PREMIUM PENALTIES

AUTHORITY: 29 U.S.C. 1302(b)(3), 1303(a), 1306, 1307.

SOURCE: 61 FR 34020, July 1, 1996, unless otherwise noted.